IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 413 OF 2007
IN
CRIMINAL APPEAL NO.256 OF 2007

1. Sanjay Vishnudas Rayate
2. Umesh Sukhdeo Rayate
3. Rajendra Vishnudas Rayate ..Appli**cants**

V/s

The State of Maharashtra ..Respo**ndent.**

Mr. V.V.Purwant, Advocate for the applicant.
Ms S.V. Gajare , APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 11TH APRIL, 2007.

P.C.

. Heard Mr Purwant, learned Counsel for the applicant and Ms.Gajre, learned APP for the State.

2 The applicants were convicted for the offence punishable under Section 307 r/w section 34 of Indian Penal Code and was sentenced to undergo R.I.for seven years and to pay fine of 2000/- and in default to pay fine to undergo S.I.for one month. The applicants and two other accused have preferred an appeal against the conviction and sentence. The appeal is admitted. Accused Nos. 4 and 5, who are the ladies are already

granted bail by this Court. The present applicants had sought liberty to file separate application after getting copies of the evidence. Leave was granted and the earlier application for bail was considered only for accused Nos. 4 and 5 and they were granted bail. By this application, the applicants seek to be released on bail pending the appeal.

2. Perused the relevant evidence and the Judgment of the trial Court. It appears that there was some dispute between the accused persons and Surekha on account of share and possession of the bungalow situated in a field, which is the ancestral property of the parties. As per prosecution case, on 17/11/2003 accused No.2 Umesh and his mother accused No.4 Asha had been to said Surekha and sought their share in the bungalow and dispute occurred. On next day when Surekha was cooking all the five persons entered into her house and while accused Nos. 1,3,4 and 5 caught hold of said Surekha, accused No.2 Umesh forcibly poured some poison in her month. Immediately after the incident, Surekha was taken to the hospital and she lodged a report and after investigation it was found that the insecticide i.e. endosulfan powder was administered to her. According to

the applicants, this was false case created by her on account of dispute pertaining to the property. In fact, on 15/11/2003, accused No.2 Umesh had lodged a report to the police stating the fact about the dispute and also apprehending that Surekha was likely to lodge a false report against them. It is material to note that the medical officer, who had examined her, was not examined by the prosecution as witness during the trial. Accused persons were on bail during the trial and there is no allegations of misuse of the bail. In view of the circumstances, I find that applicants, who are original accused Nos. 1 to 3 may also be granted bail pending the appeal.

3. The applicants be enlarged on bail on their executing P.R. of Rs. 15,000/- each with surety in like amount with conditions that they shall deposit fine amount and shall not misuse the bail.

(J.H. BHATIA, J.)